UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,367	07/27/2001	Scott T. Trosper	MI40-333	8104

21567 7590 03/12/2003

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

EXAMINER	
PHAM, TOAN NGOC	

ART UNIT	PAPER NUMBER
2632	13

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/915,367	TROSPER, SCOTT T.	
	Examiner	Art Unit	
	Toan N Pham	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-44 and 46-65* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *5-15,25-30,36-44,58-62,64 and 65* is/are allowed.

6)☒ Claim(s) *1-4,16-24,31-35,46-57 and 63* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 21-24 and 46-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Elberty et al. (US 6,084,512).

Regarding claim 21: Elberty et al. discloses an identification system comprising an interrogator (100) configured to output a wireless signal (118, 120) to identify at least one of a plurality of radio frequency identification devices (500); plural radio frequency identification devices (500) individually configured to receive the wireless signal (118, 120) and to selectively emit a human perceptible signal (518) to indicate presence; and wherein only the at least one radio frequency identification device identified by the wireless signal is configured to output the human perceptible signal responsive to

receiving the wireless signal (col. 4, lines 5-25, 48-67; col. 5, lines 1-8; col. 10, lines 24-48).

Regarding claim 22: Elberty et al. discloses the radio frequency identification devices (500) individually include a light emitting device (518) configured to emit a human visible signal to indicate presence (col. 10, lines 45-48).

Regarding claim 23: Elberty et al. discloses the wireless signal (120) includes an identifier and the at least one radio frequency identification device is configured to indicate presence responsive to the identifier (col. 5, lines 23-30; col. 10, lines 45-48).

Regarding claim 24: Elberty et al. discloses the radio frequency identification devices are individually configured to output wireless signals (col. 4, lines 21-25; col. 5, lines 23-49; col. 10, lines 45-48).

Regarding claim 46: Elberty et al. discloses an identification method comprising providing a plurality of radio frequency identification devices (500) individually including indication circuitry (Fig. 5); outputting a wireless signal to identify at least one of the radio frequency identification devices; receiving the wireless signal within the radio frequency identification devices; emitting a human perceptible signal after the receiving using the indication circuitry of the at least one identified radio frequency identification device (col. 4, lines 5-25, 48-67; col. 5, lines 1-8; col. 10, lines 24-48).

Regarding claim 47: Elberty et al. discloses the emitting includes emitting a human visible signal (col. 10, lines 45-48; Fig. 5).

Regarding claim 48: Elberty et al. discloses the wireless signal includes data and the emitting is responsive to the data (col. 10, lines 24-48).

Regarding claim 49: Elberty et al. discloses the outputting the wireless signal includes outputting an identifier (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 50: Elberty et al. discloses processing the wireless signal and the emitting is responsive to the processing (col. 10, lines 1-48).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 16-20, 31-35, 51-57 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elberty et al. (US 6,084,512) in view of Lovoi (US 6,480,699).

Regarding claim 1: Elberty et al. discloses a radio frequency identification device comprising communication circuitry configured to receive a wireless signal (118, 120) including an identifier, to process the identifier of the wireless signal and to output a control signal responsive to the processing of the identifier; and indication circuitry coupled with the communication circuitry and configured to receive the control signal and to indicate presence at the radio frequency identification device responsive to the control signal (col. 4, lines 21-24; col. 5, lines 23-49; Fig. 1, 5). Elberty et al. does not expressly disclose a radio frequency identification comprising a substrate; however, it is

well known in the art of radio frequency identification tag that the RFID tag includes a substrate for which the electronic circuitry is attached. Lovoi discloses an RFID device including a substrate (901), which the integrated circuit (100) is attached (col. 19, lines 40-53). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to utilized a substrate as taught by Lovoi in a system as disclosed by Elberty et al. for supporting the integrated circuitry of the RFID device.

Regarding claim 2: Elberty et al. discloses the indication circuitry includes a light emitting device (518) configured to emit a human visible signal to indicate the presence (col. 10, lines 45-48).

Regarding claim 3: Elberty et al. discloses the wireless signal includes data and the communication circuitry is configured to output the control signal comprising the data (col. 10, lines 24-48).

Regarding claim 4: Elberty et al. discloses the communication circuitry is configured to output a wireless signal (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 16: Elberty et al. discloses a radio frequency identification device comprising a communication circuitry configured to receive a wireless signal including an identifier, to process the identifier of the wireless signal and to output a control signal responsive to the processing of the identifier; and indication circuitry coupled with the communication circuitry and configured to receive the control signal and to output a human perceptible signal to indicate presence of the radio frequency identification device responsive to the control signal (col. 4, lines 21-24; col. 5, lines 23-49; Fig. 1, 5). Elberty et al. does not expressly disclose an integrated circuit; however, it

is well known in the art that an integrated circuit is used in all application of radio frequency identification device; thus, Lovoi discloses a radio frequency identification device includes an integrated circuit (100)(col. 4, lines 41-57). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilized an integrated circuit as taught by Lovoi in a system as disclosed by Elberty et al. for providing a smaller and compact radio frequency identification device.

Regarding claim 17: Elberty et al discloses the indication circuitry includes a light emitting device (518) configured to emit a human visible signal to indicate the presence (col. 10, lines 45-48; Fig. 5).

Regarding claim 18: Elberty et al. discloses the wireless signal includes data and the communication circuitry is configured to output the control signal comprising the data (col. 10, lines 24-48).

Regarding claim 19: Elberty et al. the communication circuitry is configured to output a wireless signal (122) (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 20: Elberty et al. discloses a battery coupled with the communication circuitry and the indication circuitry (Fig. 5, col. 11, lines 1-6).

Regarding claim 31: See the claim 1 above.

Regarding claim 32: Elberty et al. discloses outputting the wireless signal (118, 120) using an interrogator (100) (Figs. 1, 5).

Regarding claim 33: Elberty et al. discloses the indicating includes emitting a human perceptible signal (col. 10, lines 45-48).

Regarding claim 34: Elberty et al. discloses the indicating includes emitting a human visible signal (col. 10, lines 45-48).

Regarding claim 35: Elberty et al. discloses the wireless signal includes data and the control signal comprises the data (col. 10, lines 24-48).

Regarding claim 51: Elberty et al. discloses the communication circuitry is configured to output the control signal comprising coded signal which are obviously digital information (col. 4, lines 21-27).

Regarding claim 52: Elberty et al. discloses the communication circuitry is configured to extract digital data from the wireless signal and to output the control signal comprising the extracted digital data (col. 4, lines 21-51).

Regarding claim 53: Elberty et al. discloses an antenna (502) coupled with the communication circuitry and the control signal is configured to alter the impedance of the antenna to backscatter modulate a continuous wave signal received at the antenna (col. 9, lines 41-67; col. 10, lines 1-48).

Regarding claim 54: Elberty et al. discloses the communication circuitry is configured to output a wireless signal (122) (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 55: Elberty et al. discloses the communication circuitry is configured to output a wireless signal having data therein according to the control signal (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 56: Elberty et al. discloses the communication circuitry comprises a processor (516) configured to execute executable instructions to process the identifier (col. 10, lines 23-48).

Regarding claim 57: See claim 51 above.

Regarding claim 63: Elberty et al. discloses the communication circuitry comprises radio frequency identification device circuitry (col. 5, lines 23-37; Fig. 5).

Allowable Subject Matter

Claims 5-15, 25-30, 36-44, 58-62, 64 and 65 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of Monjo (US 5,963,133), Bender (US 6,147,602), and De La Huerga (US 6,255,951) are cited to show a variety of radio frequency devices with indicators..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N Pham whose telephone number is (703)306-3038. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Daniel J. Wu can be reached on (703) 308-6730. The fax phone numbers for the organization where this application or proceeding is assigned are

(703)872-9314 for regular communications and (703)872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

Toan Pham

March 5, 2003